

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

DOLORES CEPEDA

VS

C.A.2019-CV-5

**BANK OF AMERICA, N.A.
FAY SERVICING, LLC
WILMINGTON TRUST NATIONAL ASSOCIATION
SOLEY AS TRUSTEE FOR THE MFRA TRUST 2014-2 ,ALIAS**

**MOTION TO ALTER AND AMEND JUDGMENT PURSUANT TO
F.R.C.P.59(e)**

Plaintiff, by her Attorney, moves that this Court pursuant to F.R.C.P 59(e), to alter and amend the Judgment entered on September 28, 2020:

1. To vacate the Order of Summary Judgment for Wilmington Trust on the breach of contract claims based on recent state law precedent, which is different from any Federal law precedent the failure to consider resulted in a manifest error of law.

2. To vacate the Order of Summary Judgment on the R.I.G.L. 34-27-3.1 claim based on a manifest error of law in incorrectly applying the mail box rule.

3. To vacate the Order of Summary Judgment on the Fair Debt Collection Practices Act claims and reinstate these claims based on a manifest error of law.

4. To vacate and to reinstate the TILA Count because the damages alleged in the complaint were concrete and substantial and in conformity with *Spokeo*.

5. In the alternative confirm that any dismissal of the Federal TILA claims based on the holding in *Spokeo* was without prejudice and that due to the lack of jurisdiction this Court should dismiss it solely pursuant to FRCP 12(b)(1).

6. A separate Motion as to Bank of America, N.A. is being filed. In support of this Motion, Plaintiff files the attached Memorandum of Law.

DOLORES CEPEDA

By her Attorney

October 26, 2020

/s/ John B. Ennis
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CERTIFICATION

I hereby certify that I emailed a copy of the above Motion to the following electronically on this 26th day of October, 2020:

Patrick T. Uiterwyk
Justin Shireman

/s/ John B. Ennis